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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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Request for Comments on Revisions :
To the Net Metering and Interconnection : Docket Nos. M-00051865
Regulations at 52 Pa. Code §§75.1 *et seq.* : L-00050174 and
To Conform with the Language of : L-00050175
Act 35 of 2007 :

COMMENTS of
THE ENERGY ASSOCIATION of PENNSYLVANIA

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Date: November 19, 2007

The Energy Association of Pennsylvania ("EAPA") hereby submits these comments on behalf of its electric distribution company members¹ in response to the Secretarial Letter published by the Pennsylvania Public Utility Commission ("Commission") on October 19, 2007. The Secretarial Letter requested comments regarding the effect the enactment of Act 35 of 2007 had on the Commission's final regulations regarding net metering and interconnection. EAPA's comments to the specific issues raised by the Commission are below.

1. What is the meaning of "full retail value for all energy produced"? Act 35 does not specifically define this term. The term could be interpreted as meaning the fully bundled retail rate for generation, transmission, distribution, and any applicable transition charges. Alternatively, given the Legislature's use of the terms "excess generation" and "energy" it also could be interpreted as being limited to the generation component of the retail rate.

EAPA does not believe that the Legislature intended for the term "full retail value" to include the generation, transmission and distribution, as well as the Competitive Transition Charge ("CTC") and Intangible Transition Charge ("ITC") components, of a retail rate. Rather, EAPA contends that the plain language of Act 35 supports the interpretation of "full retail value" to mean the generation ("energy and capacity") portion of a retail rate only. Act 35 states specifically: "[e]xcess generation from net-metered customer-generators shall receive full retail value for all *energy* produced on an annual basis." (Emphasis added)

¹ Electric distribution company members of EAPA include: Allegheny Power, Duquesne Light Co., Metropolitan Edison Co., A FirstEnergy Company, Pennsylvania Electric Co., A FirstEnergy Company, Pennsylvania Power Co., A FirstEnergy Company, PECO Energy Co., Pike County Light & Power Co., PPL Electric Utilities, and UGI Utilities, Inc.-Electric Division.

EAPA believes that the use of the terms “excess generation” and “energy produced” define the words “full retail value” and the Commission should ensure that their final regulations are consistent with this interpretation. Furthermore, Act 35 specifically uses the term “value” instead of “price,” thereby providing additional support for this interpretation. Net-metered customer-generators should receive the full retail value of their excess energy at the generation (energy and capacity) retail rate.

The alternative interpretation – which would pay the customer-generator not only the generation component, but also the transmission and distribution rate, as well as any transition charges – is inconsistent with the plain language of Act 35. Moreover, allowing customer-generators to bypass transition charges (where collected) directly contradicts the Electric Generation Customer Choice and Competition Act. CTCs and ITCs are non-bypassable charges that must be paid by all customers that access an Electric Distribution Company’s (“EDC’s”) distribution system. By allowing a customer-generator to receive the fully bundled retail rate for their excess generation, the CTC and ITC portion would be redistributed to other customers - an unfair result that is contrary to the Electric Generation Customer Choice and Competition Act.

It also is imperative that EDCs be fully compensated for the use of their system. When a customer-generator is interconnected to a distribution system, the customer-generator receives distribution services and utilizes distribution equipment. Therefore, the customer-generator should pay for such services and equipment. In addition, when a customer-generator produces excess energy, the

customer-generator relies on the EDC's distribution system to move that energy. In these circumstances, the customer-generator should be compensated for the excess energy, but should not receive a credit for distribution and transmission charges, or bypass transition (CTC and ITC) charges. Because this energy is being purchased for resale purposes, the EDC should not be expected to pay anything more than the price being avoided, that is, the excess energy at the generation (energy and capacity) retail rate. Providing a credit for transmission and distribution is akin to having a parking lot owner pay you to park your car in their lot. This unacceptable subsidization of customer-generators is inequitable and unfair to the EDC's remaining customer base. As Act 35 makes clear, a customer-generator should be credited for the excess energy they produce under the Commission's final net metering regulations.

2. What are the projected costs associated with these competing interpretations, i.e., given a projected level of net metered generation (kwh) what are the projected costs to the remaining customers of an EDC if net-metered customer-generators receive x cents per kwh versus y cents per kwh?

If a customer-generator were compensated for their excess energy at the fully bundled retail rate, he would receive for illustrative purposes, 10 cents per kwh. If the customer-generator were compensated at the full retail value of generation, he would receive approximately 6 cents per kwh. The 4 cents per kwh differential would have to be multiplied by the excess generation from all net-metered customer-generators and recovered from other customers of the EDC. The CTC and ITC specifically would be redistributed, those charges would have

to be collected over fewer kWh sales. Depending on the number of customer-generators and the size of their facilities, this cost-shifting could be significant.

3. How should any residual stranded cost charges be treated in the annual reconciliation?

Stranded costs, which are being collected through non-bypassable CTC and ITC charges, should be recovered from customer-generators just as they are recovered from all other EDC customers. CTCs and ITCs should be reconciled through the regular process unless a customer-generator shows a significant reduction, defined as 10% or more, in their usage. In such cases, the EDC's current tariff provisions regarding CTC and ITC reconciliation would apply.

4. Are there any additional issues to be addressed by moving the reconciliation of excess energy from a monthly to an annual basis?

Moving the reconciliation period from a monthly to an annual basis could distort price signals if applied incorrectly. The generation value of any excess energy produced (i.e. in dollars) in a month must be carried forward. In a case where there would be excess dollars at the end of an annual period, they would be paid to the customer-generator at that point.

5. Act 35 does not define the phrase “annual basis”. Does this phrase mean a calendar year, fiscal year or does it correspond with the AEPS compliance period of June 1 through May 31?

EAPA asserts that due to the fact that Act 35 amends the original AEPS legislation, “annual basis” should conform to the AEPS compliance period which is based on the PJM planning year.

6. Should demand charges for distribution transmission and generation services paid by net-metered customers be adjusted? If so, should each component of the demand charge be adjusted to reflect the net flow of energy through a meter? How should the adjustment be calculated?

EAPA asserts that demand charges paid by customer-generators do not require an adjustment. By allowing demand charges to remain intact, the Commission is providing the correct incentive to generate at the peak. Demand is the amount of energy used over a fifteen-minute, thirty-minute or sixty-minute period. To the extent that a customer-generator is operating in a given hour, the demand will be lower. Therefore, a customer-generator will be able to reduce their demand charges by producing a surplus at the peak. It will be self-regulating and does not require further adjustment.

7. Should the Commission provide monthly credits for net-metered accounts, and carry over monthly excess generation to the next billing month, with any remaining excess energy (where total annual generation of energy exceeds total annual usage) cashed out at the end of the year? Alternatively, do the net metering regulations only provide for annual compensation for excess generation in any month?

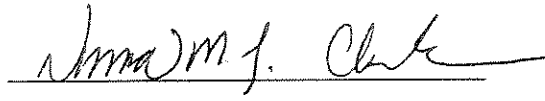
EAPA believes that in order to be consistent with the plain language of Act 35, the net metering regulations should provide for only annual compensation for

excess monthly generation, as explained more fully above in the response to Question #4. The value of excess energy produced (i.e. in dollars) should be carried forward and, if at the end of the annual reconciliation period there is excess value, it would be paid to the customer-generator. Any excess energy should be then compensated at the full retail generation rate as discussed in response to Question 1 above. This interpretation reflects actual usage and is the most practical application of the net metering regulations.

Respectfully Submitted,



J. Michael Love
President & CEO



Donna M. J. Clark
Vice President & General Counsel

CERTIFICATE of SERVICE

I hereby certify that I have served a copy of the foregoing "*Comments of the Energy Association of Pennsylvania Re: Net Metering and Interconnection Regulations at 52 Pa. Code §§75.1 et seq. to Conform with the Language of Act 35 of 2007*" relating to Docket Nos. M-00051865, L-00050174 and L-00051075 on the persons listed below, by means of hand-delivery or first-class mail, as indicated:

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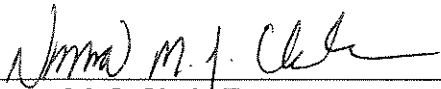
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